

Serial No. 10/847,788
 Examiner: FLEMING, Faye M.
 Art Unit 3616

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REMARKS

By this amendment claims 1, 7, 9, 14, 16 and 22 have been amended. Claims 2 to 6, 10 to 13, and 17 to 21 have been cancelled. Claims 25-27 have been added. No new matter has been entered. Accordingly, claims 1, 7-9, 14-16, 22-27 are now pending in the application. The specification has also been amended. Reconsideration and allowance of all of the claims are respectfully requested in view of the foregoing amendments and the following remarks.

Regarding Office Action Paragraph 1 – Objection to the Specification

Paragraph [0017] has been amended to add the following, in order to provide a description of an "ATV-type tire": "The front wheels define the front axis and the rear wheels define the rear axis. Each of the wheels includes an ATV-type tire, *i.e.* a low-pressure balloon tire having an air pressure of less than 1 kg/cm²".

It is believed that this description is already present in the application, as the vehicle described therein is an ATV, it is shown in the drawings have ATV-type tires, and this definition is known by a person skilled in the art of ATVs. For example see U.S. Patent 4,860,850, assigned to the present assignee's competitor Honda, wherein, at col. 3, lines 57-60 it states: "The wheels Wf, Wlr, Wrr each has a wide extremely low pressure tire T, for example, so-called balloon tire whose air pressure is less than 1 kg/cm², mounted thereon."

Reconsideration and withdrawal of the objection is respectfully requested.

Regarding Office Action Paragraphs 2 and 3 – Rejection under 35 U.S.C. 112

Claims 1, 9 and 16 are rejected under 35 U.S.C. 112 2nd paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

The Examiner believes that the expression "an ATV-type tire" is unclear. Claims 1, 9 and 16 have been amended to recite simply "a tire". It is believed these amendments overcome the Examiner's rejection in this regard.

Reconsideration and withdrawal of this rejection is respectfully requested.

Regarding Office Action Paragraphs 4 and 5 – 35 U.S.C. 103

Examiner has rejected claims 1-15 under 35 USC 103(a) as being unpatentable over Kitao (US Pat. No. 6,182,784). Examiner states: "With respect to the wheelbase, it would have been an obvious matter of design choice to have a wheelbase a specific size and/or size within a specific range, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art, as well as discovering the optimum or workable ranges involves only routine skill in the art."

Applicants disagree. Examiner's statement of the law is incomplete. See MPEP 2144.05 II B. The complete statement is that "A particular parameter must first be recognized as a result-effective variable, *i.e.* a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPD 6 (CCPA 1977)".

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Each of the claims of the present application now recites a wheelbase within a specific range. (This range having been present in the dependent claims, which have now been cancelled.) Examiner has not cited any reference that shows that the wheelbase of an ATV is a result-effective variable, and that therefore the range thereof now being claimed is simply an optimization of that result-effective variable. Applicants' claims are not therefore obvious when applying the correct legal test.

Reconsideration and withdrawal of the rejection is respectfully requested.

Regarding Office Action Paragraphs 6 and 7 – Nonstatutory Double Patenting

Examiner has provisionally rejected claims 1-15 under the doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application Serial No. 10/647,782. Applicants will wait until the time that that application issues as a patent to respond to this rejection.

Regarding Claims 16-24

Examiner has not rejected claims 17-24 nor has she objected to these claims as being dependent from rejected claim 16 but otherwise being allowable if rewritten in independent form. Clarification in the next office action is requested.

Regarding Claims 25-30

New claims 25-30 have been added and are believed to be patentable.

Conclusion

In view of the above amendments and remarks, the Applicant respectfully submits that all of the currently pending claims are allowable, and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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